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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,022	11/14/2003	Ly Cuong	07244-00147-US	2859

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EXAMINER

SCHILLING, RICHARD L

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,022

Applicant(s)

CUONG ET AL.

Examiner

Richard L. Schilling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Thomson et al. in view of Ly et al. and European Patent Publication 1,089,125 for the same reasons as set forth in item No. 2 of the first Office action filed February 4, 2005.

2. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Thomson et al., Ly et al. and European Patent Publication 1,089,125 as applied in paragraph 1 above further in view of European Patent Publication 490,416 for the same reasons as set forth in paragraph 3 of the first Office action.

3. Claim 1-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of European Patent Publication 270,078 in view of Ly et al. and European Patent Publication 1,089,125 for the same reasons as set forth in paragraph 4 of the first Office action.

4. Applicants' arguments filed May 9, 2005 have been fully considered but they are not deemed to be persuasive. Applicants' argument that there is no hint in Thomson et al. to select supports which are deformable plastic is unconvincing. The supports in Thomson et al. are polyvinyl chloride and polycarbonate which are not stretched. All polymers available in foil form, as in Thomson et al., which are not stretched fall

under the term deformable plastic as disclosed in page 7, lines 30-34 of applicants' specification. Moldable supports include polyvinyl chloride and polycarbonate as used in Thomson et al. as disclosed on page 8, lines 3-7 of applicants' specification. Also, the materials in Thomson et al. are specifically disclosed as moldable for formation of three dimensional structures without visible cracking. Applicants' argument that Thomson et al. is not directed to multiple layer color photographic materials is unconvincing since claims 1 and 6 in Thomson et al. are clearly directed to multilayer light sensitive color photographic materials. Agfa Type 10 is color print material as disclosed by Kim et al. (Example 3).

Applicants' argument that the support of European Patent Publication 1,089,125 is not meant to be deformed is unconvincing since it is Thomson et al. which is relied on to disclose deformable and moldable supports.

Applicants' argument that European Patent Publication 470,416 is directed to diffusion transfer elements is unconvincing since it still discloses that adhesion between hydrophilic layers and plastic supports may be increased by the disclosed subbing layers. The hydrophilic layers are generally disclosed on page 2, lines 1-3 of the European patent publication without limitation to diffusion transfer receiving elements.

Applicants' argument that one cannot combine European Patent Publication 274,078 with Ly et al. or European Patent Publication 1,089,125 without motivation is unconvincing. Ly et al. and European Patent Publication 1,089,125 provide the motivation of using iridium dopants in silver halide grains of improved digital scanning, sharp contrast, stable latent images and reduced reciprocity failure.

5. Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,818,370 and claims 1-17 of U.S. Patent No. 6,821,719 optionally in view of Ly et al. and European Patent Publication 1,089,125 for the same reasons as set forth in item No. 5 of the first Office action.

6. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION

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IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc

May 24, 2005

RICHARD L. SCHILLING
PRIMARY EXAMINER
GROUP 4100 1752

